

Decision 06-06-013 June 15, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Todd F. Brandt and John F. Brandt,

Complainants,

vs.

Geyserville Water Works,

Defendant.

(ECP)

Case 06-02-019

(Filed February 22, 2006)

Todd F. Brandt, in pro per, for himself and John F. Brandt,
complainants.

Harry K. Bosworth, a non-attorney, for defendant Geyserville
Water Works.

DECISION DENYING WAIVER OF INITIAL CONNECTION FEE

Administrative Law Judge (ALJ) Victor Ryerson heard this matter in Healdsburg on March 17, 2006. The hearing concluded, and the matter was submitted, on that date.

Complainants Todd F. Brandt and John F. Brandt, together with John Dayton, a realtor, subdivided a small orchard in Geyserville into four lots. This matter concerns Lot #4, a 20,000-square-foot lot in that minor subdivision.

Geyserville Water Works, a Class D water company with 300 connections, serves the lots in the minor subdivision. Harry K. Bosworth is the owner of the company.

The complainants purchased Lot #4 from Center Street Properties, a company with which Dayton is affiliated, on July 26, 2003. Todd built a house on the property the following year.

Center Street Properties paid for the improvements to the lots before they were sold. Carlisle Construction Company submitted an application to the defendant to provide water service for a single-family dwelling on Lot #4, and paid the \$2,000 initial connection fee specified in defendant's filed tariff on behalf of Center Street Properties. Defendant installed a 5/8 x 3/4-inch meter, sufficient to provide service to the contemplated house. In the meantime, Todd used the water for landscaping on the property.

Before Todd built the house on Lot #4, the County of Sonoma adopted an ordinance requiring new single-family dwellings to be equipped with a sprinkling system. The meter that had been installed on Lot #4 was insufficient, particularly because the water service was also used for landscape maintenance on the lot. Consequently, Todd found it necessary to install a larger water meter in order to receive approval to build the new home on Lot #4.

Todd determined that a one-inch meter was necessary for operation of the sprinkler system in addition to the other needs on his parcel. Although he first contacted the defendant about doing the work, Todd arranged to have his uncle's company, Conley Plumbing, replace the meter at his own expense. The defendant did not learn about the meter replacement until it was discovered by a meter reader sometime afterward.

The parties do not disagree about the terms of the defendant's filed tariffs governing facilities fees and general metered service. Pursuant to those tariffs the defendant billed the complainants \$5,000 for the initial connection fee for the one-inch meter, and has billed a monthly service charge of \$50.40 for that meter

in lieu of the \$20.10 per month previously billed for the 5/8 x 3/4-inch meter service. Nevertheless, the defendant offered Todd a \$600 reimbursement for the cost of the one-inch meter that he installed.

The complainants seek an order that defendant waive the \$5,000 initial connection fee. If such relief cannot be ordered, the complainants alternatively ask the Commission to reduce the facilities fee to the original \$2,000 fee for the 5/8 x 3/4-inch meter, as that fee would have been sufficient if the County had not adopted the recent ordinance requiring sprinkler systems. Defendant defends its insistence on receiving the full amount of the fee on the grounds that it is compelled to charge the fee under its filed tariff, which may not be altered retroactively under well-settled principles of regulatory law. Defendant further points out that this specific tariff was adopted by the Commission in recognition of the company's prospective capital requirements.

Defendant is correct: Geyserville Water Works may not accept a lower initial connection fee than that which is specified in its filed tariff, as doing so would amount to a retroactive tariff change. The matter of the defendant's capital needs was considered by the Commission when it adopted the tariff, giving full regard to the service needs of present and prospective customers. We cannot alter this determination after the fact. However, we will order that the \$600 cost of the one-inch meter be refunded to the complainants, as their installation of the meter, although unauthorized, constitutes an in-kind payment of part of the fee.

The complainants, at the suggestion of the Commission's Water Branch, also ask us to order the defendant to file a new tariff enabling the defendant to charge a lower rate for meters replaced after passage of the county ordinance on improved lots, in recognition that the ordinance does not "grandfather" lots

which already have non-compliant meters. Both parties point out that other local water companies, notably Redwood Valley and California Water Service (Dixon District), have tariffs governing similar circumstances. Constitutionally we cannot grant such quasi-legislative relief in this matter, as this proceeding adjudicates a particular controversy between two parties. However, we strongly urge both parties to seek relief from the Commission prospectively on behalf of all customers as soon as practicable by appropriate direct request, so the Commission may fully examine the underlying financial ramifications.

Assignment of Proceeding

John A. Bohn is the Assigned Commissioner and Victor D. Ryerson is the assigned ALJ in this proceeding.

O R D E R

IT IS THEREFORE ORDERED that:

1. Todd F. Brandt's and John F. Brandt's request for reduction of the initial service connection fee and the monthly service charge is denied, except that Geyserville Water Works shall apply a refund of \$600.00 to the service connection fee in recognition of the in-kind payment that the defendant has made by installing a one-inch meter.

2. Case 06-02-019 is closed.

This order is effective today.

Dated June 15, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners